

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

SEAN RODNEY ORTH,

Plaintiff,

vs.

DENNIS BALAAM, *et al.*

Defendants.

3:06-cv-00481-LRH-RAM

ORDER

This prisoner civil rights action comes before the Court on plaintiff's motion (#36) for leave to file a second amended complaint. No pleading was attached with the motion.

Under Local Rule LR 15-1, "[u]nless otherwise permitted by the court, the moving party shall attach the proposed amended pleading to any motion to amend so that it will be complete in itself without reference to the superceding pleading." Plaintiff did not attach a proposed amended pleading with the motion for leave to amend, and the motion therefore will be denied for failure to comply with the Local Rules.

Contrary to the plaintiff's assertions in the present motion, his motion (#26) to extend order did not constitute a motion for leave to amend, and the motion did not request such relief. Further contrary to the plaintiff's assertions in the present motion, the prior second amended complaint was stricken, not dismissed.

Plaintiff requests thirty days within which to file a second amended complaint. Plaintiff has been under no deadline within which to file a second amended complaint. Plaintiff's prior second

1 amended complaint was stricken two months ago, and plaintiff has had ample time to file a motion for
2 leave to amend accompanied by a completed pleading. However, out of an abundance of caution, the
3 Court will extend the time for service of the first amended complaint for thirty days. The action will
4 be dismissed without further advance notice for failure to timely effect service unless, within thirty days
5 of entry of this order, plaintiff mails for filing either: (a) proof of service of the first amended complaint;
6 or (b) a proper motion for leave to file a second amended complaint with a completed pleading.

7 IT THEREFORE IS ORDERED that the motion (#36) for leave to file a second amended
8 complaint is DENIED.

9 IT FURTHER IS ORDERED that this action will be dismissed without further advance notice
10 for failure to timely effect service unless, within thirty days of entry of this order, plaintiff mails for
11 filing either: (a) proof of service of the first amended complaint; or (b) a proper motion for leave to file
12 a second amended complaint with a completed pleading.

13 DATED this 31st day of January, 2008.

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LARRY R. HICKS
UNITED STATES DISTRICT JUDGE